

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

P.S -Cooperation Department - Disciplinary proceedings initiated against Sri T.V. Rama Rao CSR for allegation of irregularities in misappropriation of funds- Set aside the dismissal orders by APAT dated. 11.09.01 – Implementation of the orders of APAT in OA No's 7821/2003 and 1273/03 dated 27.03.06- Release of pension - orders – issued.

AGRICULTURE & COOPERATION (VIG.III) DEPARTMENT

G.O.Rt. No. 1072

Dated 28.8.2009
Read the following:

1. Proceedings of CC&RCS Hyderabad No.88145/91-E6 dated 25.6.90 of the AR-I/Disciplinary Authority O/o RCS Hyderabad
2. From the APAT in O.A.No.3841/94
3. A.P.A.T.orders dated 28.7.1999 in O.A.,No.3841/94.
4. From the AP High Court in W.P. No.20854/99 filed by Sri T.V. Rama Rao.
5. A.P.High Court orders dt.28.10.1999 in W.P.No.20854/99
6. From the GP, APAT orders dt. 11.09.01.
7. A.P.A.T. orders 21.8.2002 in O.A.No. 7719/2002.
8. G.O.Rt.No.1225 A&C (Vig.II) Dept., dt. 22.11.2002.
9. Govt. Memo No.3283/Vig.III/02-3 A&C (Vig.III) Dept., dt. 22.11.02.
10. Govt. Memo No.3283/Vig.III/02-3 A&C (Vig.III) Dept., dt. 07.10.03.
11. A.P.A.T. orders dt. 27.3.2006 in O.A.No.7821/2003 and 1273/2003
12. From Hon'ble A.P.High Court orders dt.19.8.2008 in W.P.Nos. 24187/2006 and 24447/2006
13. Orders of the Hon'ble IX Addl.Chief Metropolitan Magistrate Court, Hyderabad dt.30/3.2009 in CC No.489/1998
14. From the Government Pleader, APAT letter dated 04.08.09 and 18.08.09

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ORDER:

In the reference 1st read above Sri T.V.Rama Rao, Cooperative Sub Registrar was dismissed from service by Commissioner for Cooperation & Register of Cooperative Societies, Hyderabad on the grave charges of misappropriation of funds of Bhavan Rishi Coop. Housing Society Ltd., to a tune of Rs.16.85 lakhs by way of different means.

2. Aggrieved with the above dismissal orders, the individual filed O.A.No.3841/94 in the APAT in the ref 2nd read above. In the ref 3rd read above, the APAT, in its orders dt.28-07-1999 dismissed the O.A. and upheld the orders of the Disciplinary Authority. In the ref 4th read above, the individual filed W.P.No.20854/1999 before the High Court requesting to set aside the dismissal orders as the case was not referred to the TDP. In the ref 5th read above, the High Court of AP in its order dt.28-10-1999 remanded the matter to A.P.A.T. In the ref 6th read above, the APAT in its orders dt.11-09-2001 set aside the dismissal orders on the ground that the case was not referred to the TDP. When the matter was referred to the TDP, for enquiry and report, the TDP had returned the proposal and requested to take appropriate action in accordance with Rules on the ground that the individual was retired from service, and as such, the Tribunal has no jurisdiction under the provisions of APCS (DPT) Act, 1960 to entertain the case. Sri T. V. Rama Rao filed another O.A.No. 7719/02 in APAT requesting to direct the respondents to release the entire terminal benefits and also for payment of provisional pension. In the reference 7th read above the Hon'ble APAT in its orders dt.21.08.02 directed the respondents to release the provisional pension within 2 months.

3. Government after careful examination of the matter, issued orders in the ref. 8th read above, treating the period between the date of dismissal to the date of retirement i.e. from 25.6.1993 as deemed to have been under suspension U/R 8 (4) of APCS (CCA) Rules, 1991. In the ref 9th read above, Govt. have requested the CC&RCS, Hyderabad to sanction the provisional pension to the individual and also to file a Petition in the District Court R.R. District for attachment of properties under Criminal Law, following the procedure. In the ref 10th read above, the case was entrusted to COI for conducting inquiry on the irregularities committed by Sri T.V. Rama Rao, CSR(Retired). Sri T.V.Rama Rao, has challenged the entrustment of his case to Commissioner of Inquiries by filing two O.As i.e. No.7821/2003 & 1273/2004 before APAT. In the reference 11th read above The Hon'ble APAT in the O.A.No. 7821/2003 and O.A.No.1273/2003 filed by Sri T.V.Rama Rao ordered as follows:

“..... All these OAs are accordingly allowed and the impugned Proceedings in Memo No.3283/Vig.II/3/2002-7 dt.7.10.2003, in O.A. No.1273/03 and the G.O.Rt.No.966 dt.7.8.2003 impugned in O.A.No. 6761/2003, are liable to be set aside and they are accordingly set aside. Any further consequential action taken by the respondents, in pursuance of the said Memo and G.O. is also therefore, not sustainable in the eye of Law. The respondents shall, consequently, release all the pensionary benefits, payable to the applicants, within a period of three months, from the date of receipt of a copy of this order”.

4. Subsequently, the Charged Officer has filed Contempt for not implementing the orders passed by the APAT in the above O.As. As advised by the Advocate General, two W.Ps were filed before the Hon'ble High Court. In the reference 12th read above The Hon'ble High Court in its orders dated 19.08.08 in W.P.Nos. 24187 & 24447 of 2006 dismissed the both W.Ps.with the following observations:-

“.....further the charges against the respondent relate to an incident which had occurred between 1983 and 1988. Nearly more than twenty years have elapsed since the incident had occurred. The charges relate to certain omissions and commissions committed by the respondent when he acted as office bearer of a Private Society. Admittedly, they do not relate to misappropriation of Govt. funds. As rightly pointed out by the Tribunal, the Government has also the power to proceed as per the provisions of the A.P. Cooperative Societies Act, but it has not opted to do so”.

In view of the foregoing discussion, we find no merit in the writ petitions. The Tribunal rightly declared that G.O.Ms.No. 1225 dt.22.11.2002 is illegal and arbitrary and cannot be sustained in law and consequently, the Memo dt.7.10.2003 also cannot be sustained. We are of the view that the Tribunal is justified in granting the prayers sought by the respondent. Hence, no interference is called for with the said order of the Tribunal.

In the result, both the writ petitions must fail and they are accordingly dismissed. There shall be no order as to costs.”

5. Mean while, in the ref 13th read above, in C.C.No.489/98 filed against the individual, the Hon'ble IX Addl.Chief Metropolitan Magistrate Court, Nampally in its judgment dt.17-04-2009 passed the following orders.

“ In the result, accused (A2) is convicted U/s 248(2) Cr.PC and sentenced to RI for one year and pay a fine of Rs.1,000/- (Rupees one thousand only) for the offence U/s 406 IPC. In default of payment of fine SI for one month. Further he is convicted and sentences to RI for one year and pay a fine of Rs.1,000/- (Rupees One thousand only) for the offence U/s 420 IPC. In default of payment of fine SI for one month, Further he is convicted and sentenced to RI for one year and pay a fine of Rs.1,000/- (Rupees one thousand only) for the offence U/s 418 IPC. In default of payment of fine SI for one month. The total fine amount of Rs.3,000/- (Rupees three thousand only). The above sentences awarded shall run concurrently. The detention period of the accused if any shall be set off U/s 420 Cr.PC”

6. In the meanwhile C.A. 155/2009 in O.A. 1273 and 6761 of 03 and 7821 of 2003 came up hearing on 04.08.09, 18.08.09 and finally posted on 02.09.09 for compliance.

7. In the ref 14th read above the Government Pleader., APAT while explaining the above position has requested to take immediate steps in the way of implementing the orders passed by APAT on 27.03.06 in the above said O.A's before the date fixed by the Court & send a compliance report.

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8. Govt. after careful examination of the entire matter hereby decided to release the Pension in full. But the terminal benefits such as leave salary and gratuity shall be withheld against the recoveries that have to be made from him under Rule 46 (6) c (ii) & (iii) of APRP Rules, 1980.

9. The Commissioner for Cooperation & Register of Cooperative Societies, Hyderabad is requested to take immediate action in the matter and send a compliance report to this Department, immediately.

10 This order issues with the concurrence of Finance (pension II) Department vide their U.O. No 9025/235/A1/Pen.II/ 09 dated 19.08.09.

(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

**K.R.KISHORE
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Commissioner for Cooperation &
Register of Cooperative Societies, Hyderabad
Copy to
Sri T V. Rama Rao through CC&RCS.
The Secretary, APVC, Hyderabad.
SF/SC.

//Forwarded By Order//

SECTION OFFICER